THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 234 of 2006

Anil Mani S/O lat Chandra Shekhar Mani,
R/O Narayan Pur, Tehsil Kichha,
District Udham Singh Nagar.

… **Petitioner.**

Versus

1. State of Uttaranchal, through the District Magistrate Udham Singh Nagar.
2. Tehsildar – Tehsil- Kichha, District Udham Singh Nagar.
3. Branch Manager, State Bank of Patiyala, Rudrapur, District Udham Singh Nagar.
4. Paras Mani S/o Late Chandra Shekhar Mani, R/o Narayan Pur, Tehsil Kichha, District Udham Singh Nagar.
5. Arun Mani S/o Late Chandra Shekhar Mani, R/o Narayan Pur, Tehsil,
   Kichha, District- U.S.Nagar.

… **Respondents.**

Sri K.N.Joshi, Advocate, learned counsel for the petitioner.
Learned Standing Counsel for the respondent –State.
Sri Ashish Joshi, Adv. for respondent no.3-Bank.

Dated March 10, 2006.

PC:
(Hon'ble B.S.Verma, J.)

Heard learned counsel.

This writ petition has been moved for direction in the nature of certiorari for quashing the impugned recovery citation dated 21-10-2005 and auction notice dated 13-2-2006 (Annexure- 2 & 3 to the writ petition) issued by the respondents against the petitioner.

Brief facts of the case are that the father of the petitioner took agricultural loan of Rs. 3,00,000/- from the Stank Bank of Patiyala Rudrapur on 16.3.2003, who had mortgaged his land at that time. The father of the petitioner died on 27.3.2003 without making repayment of the loan amount. According to the

petitioner, apart from him, his two other brothers are left behind as legal heirs by his father, who are respondent no. 4 and 5. All the three brothers have equal share in the property left by their father. Since the loan amount could not be paid, the respondents issued recovery citation against the petitioner alone on 21.10.2005. the petitioner has deposited Rs. 1,15,000/- of his 1/3rd share of loan amount before the respondents on 20.2.2006, and the rest of the loan amount is to be recovered from the respondent nos. 4 and 5.

In the course of arguments, the learned counsel for the petitioner submitted that the petitioner made a representation before the District Magistrate/Collector Udham Singh Nagar (Annexure No. 5 to the writ petition) which is still pending. The petitioner has submitted that a direction be issued to the Collector/District Magistrate Udham Singh Nagar to decide the representation made by him and till then the proceeding for recovery may be stayed and the petition be decided finally.

Having considered the submissions of the learned counsel for the parties, I direct the respondent no.1 to decide the representation of the petitioner ***(Annexure-5)*** by a reasoned speaking order within a period of four weeks from the date of production of certified coy of this order. Till then the impugned recovery citation dated 21.10.2005 and auction notice dated 13.2.2006 (Annexure Nos. 2 and 3 to the writ petition) shall not be given effect by the respondents.

With the above observation, the writ petition is disposed of finally.

A copy of this order be issued to the learned counsel for the petitioner on payment of usual charges today.

(B.S. Verma, J.)

RCP